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beyond the constitutional term by a general law postponing the date of the election of his successor. Hence that the legislature's intention must have been to repeal that provision of the former law fixing the date of qualification at the third day of November subsequent, and to allow the judge-elect to take office shortly after his election, according to the rule of the Common Law. Of two possible statutory constructions that compatible with constitutionality is to be preferred. This legislative intent, the court said, is further shown by the title of the act, "To Further Regulate Elections", which is in general terms and exhibits no intention to lengthen the term of an individual officer. The constitutionality of the law under the construction accepted the court tacitly assumes. Yet it fails to explain how the constitution would permit the legislature to extend the term of the incumbent for five days or more (from Nov. 3 to Nov. 8, or as soon thereafter as the judge-elect could qualify) while forbidding it to extend the term for a year. The distinction must lie in the reasonableness of the period of holding over, and the salutary purpose of the law. Such a distinction has been drawn in Indiana, where a postponement of four months is upheld (*Scott v. State*, 151 Ind. 556), while one of two years is declared unconstitutional. *Gemmer et al. v. State ex rel Stephens* (1904), 71 N. E. 478, 66 L. R. A. 82)

EQUITY—REMOVAL OF CLOUDS FROM TITLE—INJUNCTION RESTRAINING ACTION OF EJECTMENT.—A conveyed in fee the title to certain lands which ultimately passed into the possession of the complainant. Ejectment proceedings were then instituted by the children of A, who claimed that A held merely an estate for life with remainder over to them, and produced a deed, dated, and bearing an endorsement showing that it was filed for record, prior to the one under which complainant claims. Complainant alleges that there has been a fraudulent alteration of the original deed to A, and files this bill praying for an injunction restraining the action of ejectment, and that the said deed be cancelled as a cloud upon his title. In the original opinion written by HARALSON, J., it was *held*, that the injunction should issue, but upon a rehearing, the decree was reversed (HARALSON, J., dissenting), and it was *Held*, that the relief prayed for should not be granted. *Wilson et al. v. Miller* (1905), — Ala. —, 39 So. Rep. 178.

One of the well recognized grounds of equity jurisdiction is to remove clouds from titles, when the deed or other instrument, or proceeding, constituting a cloud, may be used to affect injuriously the plaintiff's title. POMEROY'S EQ. JURIS., § 1398. When the complainant, holding a legal title, is in possession, equity takes jurisdiction as a matter of course, on the ground that the complainant cannot bring an action at law against himself. *Jones v. DeGraffenreid*, 60 Ala. 145; *Normant v. Eureka Co.*, 98 Ala. 181. In the principal case, however, the action of ejectment having been begun, the question arose as to whether the powers of chancery might be successfully invoked to restrain that action and remove the cloud. There are a few decisions in which the rule is stated, without qualification, that an action at law may be enjoined on the ground of fraud, although the party may successfully defend and obtain full relief. *Wright v. Hake*, 38 Mich. 525; *Henriques v. Savings Bank*, 84 Mich. 168; see also majority opinion in *Lehman v. Shook*,

69 Ala. 486. Other decisions have limited this rule to cases where multiplicity of suits would thereby be avoided. *Eldridge v. Hill*, 2 Johns. Ch. (N. Y.) 281; *Woods v. Monroe*, 17 Mich. 237. The weight of authority, however, is unquestionably to the effect, that, while fraud is of itself a ground of equitable jurisdiction, the fraud which will authorize an injunction is a fraud against which complete and adequate redress cannot be had at law. *Holt v. Pickett*, 111 Ala. 362; *Normant v. Eureka Co.*, 98 Ala. 181; *Crane v. Bunnell*, 10 Paige (N. Y.) 333; *Dougherty v. Scudder*, 17 N. J. Eq. 248. In the case of *Lehman v. Shook*, contra, relied upon by HARALSON, J., there is a strong dissenting opinion, supported by the later Alabama cases (*supra*) following the weight of authority. Had the complainant's defenses in the principal case been equitable instead of legal, the court might well have interfered (*You v. Flinn*, 34 Ala. 409), but being legal, they were all available to him in the action of ejectment, and interference by a court of equity would be usurping the jurisdiction of the courts of law and depriving the defendant of his legal right to a trial by jury.

EVIDENCE—ACCOMPLICE—UNCORROBORATED TESTIMONY.—Where it appears that an accomplice has sworn falsely, *held*, his uncorroborated testimony is not sufficient to support a verdict of guilty. *Jahnke v. State* (1905), — Neb. —, 104 N. W. Rep. 154.

Apart from statute, it is a well settled rule that the uncorroborated testimony of an accomplice is sufficient to support conviction. *Lamb v. State*, 40 Neb. 312; *People v. Gallagher*, 75 Mich. 512. The practice of judges in instructing juries to carefully scrutinize such testimony is a rule of practice and not of law, and the jury may heed the caution or not as they see fit. The weight of authority is that refusal to give such an instruction is not error. *Commonwealth v. Wilson*, 152 Mass. 12; *People v. Jenness*, 5 Mich. 305. Contra, *Hoyt v. People*, 140 Ill. 588. Whether the accomplice has sworn falsely or not is a question for the jury to determine and does not affect the general rule. But in nearly half the states statutes have been passed changing this rule of practice into a rule of law, and conviction upon such testimony is not allowed. There does not appear to be such a statute in Nebraska and the majority opinion of the court seems hard to justify. It would seem that the majority opinion is the better one and more consistent with the previous rulings of the same court.

EVIDENCE—ADMISSION OF ONE CONSPIRATOR AGAINST A CO-CONSPIRATOR.—Where defendant and another had conspired to commit a robbery, statements made to the victim by one of the conspirators after the robbery and after the defendant had left, *held* admissible as part of the *res gestæ*. *Toliver v. State* (1905), — Ala. —, 38 So. Rep. 801.

The term *res gestæ* was called into use, according to THAYER, "on account of its convenient obscurity," and according to a prominent text writer, is, in the present state of the law, not only entirely useless, but positively harmful. WIGMORE, EVIDENCE, § 1795. The general rule is, that where a conspiracy has been proved, the acts and declarations of one conspirator in furtherance of the common design are admissible. *Spies v. People*, 122 Ill. 1; *Allen v.*